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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,911	12/04/2003	Maxime Lampilas	FRAV2002/0034US NP	7536
5487	7590	08/10/2007		
ANDREA Q. RYAN			EXAMINER	
SANOFI-AVENTIS U.S. LLC			COLEMAN, BRENDA LIBBY	
1041 ROUTE 202-206				
MAIL CODE: D303A			ART UNIT	
BRIDGEWATER, NJ 08807			PAPER NUMBER	
			1624	
			NOTIFICATION DATE	
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			08/10/2007	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/727,911

Applicant(s)

LAMPILAS ET AL.

Examiner

Brenda L. Coleman

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 24-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 18-23, 40 and 41 is/are rejected.
- 7) ☒ Claim(s) 11-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-41 are pending in the application.

This action is in response to applicants' amendment filed June 14, 2007. Claims 1, 8, 10, 11, 16, 22 and 23 have been amended.

Response to Amendment

Applicant's amendments filed June 14, 2007 have been fully considered with the following effect:

1. With regards to the provisional obviousness-type double patenting rejection as being unpatentable over copending Application No. 10/480,019 of the last office action, the applicants' requested that this rejection be held in abeyance at this time.

Claims 1-10 and 18-21 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of copending Application No. 10/480,019, for reasons of record.

2. The applicant's amendments and arguments are sufficient to overcome the 35 USC § 112, first paragraph rejection, labeled paragraph 5) of the last office action, which is hereby **withdrawn**.

3. The applicant's amendments and arguments are sufficient to overcome the 35 USC § 112, second paragraph rejections, labeled paragraph 6a), b), c), d), e), f), g), h) i) and j) of the last office action, which are hereby **withdrawn**. However, with regards to the 35 U.S.C. § 112, second paragraph rejection labeled 6k) and l) of the last office action, the applicant's amendments and remarks have been fully considered but they are not persuasive.

k) The applicants' state "that one of ordinary skill in the art appreciates that a "β-lactamase inhibiting agent" is a compound that exhibits β-lactamase inhibiting activity". However, there is no guidance to which compounds possess the specific functional limitations claimed herein, and thus the applicants' have not set forth the metes and bounds of the claims. The applicants have not met the requirement where the applicants' have not set forth the subject matter that they regard as their invention or particularly pointed out and distinctly define the metes and bounds of the subject matter that will be protected by the patent grant.

Claims 22, 23, 40 and 41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, for reasons of record and stated above.

l) The applicants' state "that one of ordinary skill in the art appreciates that a "β-lactam medicament agent" is one that prevents bacterial growth via β-lactam-type compounds, which are well-known antibiotics". However, there is no guidance to which compounds possess the specific functional limitations claimed herein, and thus the applicants' have not set forth the metes and bounds of the claims. The applicants have not met the requirement where the applicants' have not set forth the subject matter that they regard as their invention or particularly pointed out and distinctly define the metes and bounds of the subject matter that will be protected by the patent grant.

Claims 40 and 41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject

matter which applicant regards as the invention, for reasons of record and stated above.

In view of the amendment dated June 14, 2007, the following new grounds of rejection apply:

Election/Restrictions

4. The applicants are reminded of the presence of non-elected subject matter in claims 1-9, 11-23, 40 and 41 with traverse in the reply filed on March 27, 2006.

This application contains claims 1-6, 11-23, 40 and 41 drawn to an invention nonelected with traverse in the reply filed on March 26, 2006. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

5. Claims 24-39 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on March 14, 2006.

This application contains claims 24-39 drawn to an invention nonelected with traverse in the reply filed on March 26, 2006. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

6. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following reason(s) apply:

- a) Claim 2 is vague and indefinite in that it is not further limiting of the claim from which it depends.

Claim Objections

7. Claims 11-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action.

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In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda L. Coleman whose telephone number is 571-272-0665. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Brenda L. Coleman
Primary Examiner Art Unit 1624
Saturday, August 04, 2007